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In the Supreme Court of the United States

OCTOBER TERM, 1943

No. 112

DAVIES WAREHOUSE COMPANY, PETITIONER

v.

PRENTISS M. BROWN, PRICE ADMINISTRATOR

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES EMERGENCY COURT OF APPEALS

BRIEF FOR THE RESPONDENT IN OPPOSITION

OPINION BELOW

The opinion of the United States Emergency Court of Appeals (R. 109–144) is not yet reported.

JURISDICTION

The judgment of the United States Emergency Court of Appeals was entered May 28, 1943 (R. 145). The petition for a writ of certiorari was filed June 21, 1943. Jurisdiction of this Court is invoked under Section 204 (d) of the Emergency Price Control Act of 1942, 56 Stat. 23.

QUESTION PRESENTED

Whether petitioner, a public warehouse company in California, is a "public utility" within the meaning of Section 302 (c) (2) of the Act, and hence exempt from regulation under the Act, because it is designated and regulated as a "public utility" by California law.

STATUTE AND REGULATION INVOLVED

The pertinent provision of the Emergency Price Control Act appears in Appendix A, *infra*, p. 18. The pertinent provisions of the General Maximum Price Regulation appear in the Record at pp. 48–50 and 59.

STATEMENT

Petitioner conducts the business of a public warehouse in the city of Los Angeles, California. Its business is declared by both constitution [1] and statute [2] of California to be that of a public utility subject to regulation by the Railroad Commission of California. That regulation includes the fixing of rates and charges of petitioner. Pursuant to the California statute the Railroad Commission on May 12, 1942, authorized petitioner to increase its rates, effective May 22, 1942. (R. 109.)

On April 28, 1942, the Administrator, acting under the authority conferred upon him by the Act,

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[1] Constitution of California, Article IV, section 33; Article XII, section 23 (R. 17–19, 109).

[2] Public Utilities Act of California, sections 2 (aa), 2 (dd), 2½, 14, 15, 63 (a) (R. 16–17, 109).

issued a General Maximum Price Regulation[3] (R. 46–75), which fixed as maximum prices of the commodities and services governed by that regulation the highest prices charged by each seller for the particular commodity or service during the month of March 1942. Section 10 of that regulation, as amended (R. 59), provided that it should not apply to such services as might be specified by supplementary regulation or amendment thereto. On June 16, 1942, the Administrator issued Supplementary Regulation No. 11[4] (R. 97), providing that the General Maximum Price Regulation should not apply to certain services until July 1, 1942. Among the services so specified were "Commercial storage and warehousing and services incident thereto."

Amendment No. 1 to Supplementary Regulation No. 11 (R. 101–105), issued June 23, 1942, provided for the exemption of certain services from the operation of the General Maximum Price Regulation, effective July 1, 1942. Of the services excepted by the amendment, the only ones partaking of the nature of a common carrier or other public utility were the following:

> (21) Electricity (companies furnishing, as public utilities), rates charged by
>
> * * * * * *
>
> (25) Express companies and freight forwarders offering their services to the gen-

[3] 7 F. R. 3153.
[4] 7 F. R. 4738.

eral public as common carriers, rates charged by

* * * * *

(30) Gas (companies supplying, as public utilities through mains), rates charged by

* * * * *

(38) Light, heat, or power (companies furnishing, as public utilities), rates charged by

* * * * *

(61) Telephone services, rates charged for

(62) Telegraph services, rates charged for

* * * * *

(68) Transportation of commodities by persons offering their services to the general public as common carriers by rail, water, motor, pipe line, or other means of conveyances, rates charged for; Provided, however, that charges for storage and warehousing and all other services incident thereto by any person shall not be excluded from the General Maximum Price Regulation.

* * * * *

(69) Transportation of persons, rates charged for

* * * * *

(73) Water (companies supplying, to urban areas as public utilities), rates charged by

* * * * *

The effect of the General Maximum Price Regulation and Supplementary Regulation No. 11, as amended, as applied to petitioner was to prohibit it after July 1, 1942, from charging the increased rates which had been approved by the California Railroad Commission. Petitioner filed a timely protest to the General Maximum Price Regulation asserting itself to be a public utility within the meaning of Section 302 (c) (2) of the Act. The Administrator denied that protest and petitioner filed a complaint in the Emergency Court of Appeals. That complaint was dismissed, the court holding that petitioner was not a public utility within the meaning of the exemption in Section 302 (c) (2) of the Act.

ARGUMENT

The Administrator interpreted the exemption of "rates charged by any * * * public utility" as applying to those businesses which have been traditionally regarded and are generally thought of as "public utilities." So construed, the exemption applies uniformly to the same kinds of businesses throughout the United States without regard to whether such businesses are designated as "public utilities" by the states in which they operate and without regard to whether a state or other federal agency controls their rates. We submit that the Emergency Court of Appeals properly approved that interpretation and properly dismissed the complaint. The decision did not rely, as it might have done, upon the principle that in

a statute of broad application exemptions are to be strictly construed; what has been said of exemptions in taxing acts is equally applicable here, that "a well-founded doubt is fatal to the claim." *Bank of Commerce* v. *Tennessee*, 161 U. S. 134, 146; see *United States* v. *Stewart*, 311 U. S. 60, 71. In any event, the decision is correct and does not call for review.

1. Section 302 (c) (2) was properly construed so as to be of uniform meaning throughout the United States. This Court has recently had occasion to restate the well established rule that descriptive terms in federal statutes, in the absence of plain indication to the contrary, should be given a general and uniform interpretation and should not be made dependent upon varying state laws in their application. *Jerome* v. *United States*, 318 U. S. 101, 104.[5] The genesis and purposes of the Emergency Price Control Act make it peculiarly appropriate that this general rule of construction

[5] There it was said, "But we must generally assume, in the absence of a plain indication to the contrary, that Congress when it enacts a statute is not making the application of the federal act dependent on state law. That assumption is based on the fact that the application of federal legislation is nationwide * * * and at times on the fact that the federal program would be impaired if state law were to control." Accord: *Morgan* v. *Commissioner of Internal Revenue*, 309 U. S. 78; *Lyeth* v. *Hoey*, 305 U. S. 188; *Chicago Board of Trade* v. *Johnson*, 264 U. S. 1; *Calhoun Gold Mining Co.* v. *Ajax Gold Mining Co.*, 182 U. S. 499.

See also Jackson, J., concurring in *D'Oench, Duhme & Co.* v. *Federal Deposit Insurance Corp.*, 315 U. S. 447, 471–472.

should be followed in its interpretation. It is a statute "born of the exigencies of war,"[6] designed to meet a problem nationwide both in its causes and in its effects. It would be surprising indeed if Congress had conditioned the authority provided to cope with the problem of wartime inflation upon variations of local law.

The language of the Act contains no hint that Congress intended to make the scope of the Administrator's authority dependent upon the nonexistence of state rate control.[7] The clause of Section 302 (c) which exempts rates charged by public utilities is itself devoid of any such qualification. In view of the wide range of businesses which are already defined and regulated as "public utilities" by various state statutes,[8] and which might at any time be so defined and so regulated, such a qualification would have an effect obviously inconsistent with the broad, firm purposes of the Act. On the other hand, the Congressional intention that the Act should be so construed as to

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[6] *Scripps-Howard Radio, Inc.*, v. *Federal Communications Commission*, 316 U. S. 4, 17.

[7] Cf. *Keifer & Keifer* v. *Reconstruction Finance Corporation*, 306 U. S. 381, 395.

[8] See the illustrations of some of the businesses designated by state statutes as public utilities and regulated as such, collected in the opinion of the court below (R. 112). They range from "abbatoirs" to "wells." See particularly, Colorado Stat. Ann. (1935), Ch. 137, section 3, defining as a public utility "every corporation or person now or hereafter declared by law to be affected with a public interest."

achieve nationwide uniformity is emphasized by the establishment of the Emergency Court of Appeals and the delegation to it of exclusive jurisdiction, subject to review by this Court, to determine the validity of maximum price and rent regulations and orders. See Sen. Rep. No. 931, 77th Cong., 2d sess., p. 8.

Nor does the legislative history of the statute support the proposition that Congress intended the scope of the exemption for common carrier and other public utility rates to be determined by characteristics of local law or the existence of state regulation of particular businesses. Discussions at the committee hearings and in the legislative debates indicate, it is true, recognition of the fact that for the most part the businesses exempted by this provision would be subject to state regulation. But they also indicate recognition of the likelihood that some of these businesses would not be subject to local regulation, and, conversely, that some businesses outside the scope of the exemption would be subject to such regulation.[9] Furthermore, in Section 1 of the amendatory Act of October 2, 1942, after the Administrator's interpretation of the exemption had been publicly established for several months, the phrase "common

[9] Hearings before the House Committee on Banking and Currency on H. R. 5479, superseded by H. R. 5990, 77th Cong., 1st Sess. (1941), 54–55, 444–445, 626; 87 Cong. Rec., Nov. 24, 1941, at 9308. These references are set forth in full in Petitioner's Brief, Appendix A, pp. i to vi.

carrier or other public utility" was again used without qualification or definition.[10] During the debates on this measure the Senate was expressly told that the Administrator had construed Section 302 (c) (2) of the Act as exempting from his authority a telephone company which was not subject to state regulation.[11] Legislative repetition of the phrase under these circumstances is persuasive indication of Congressional approval of the existing administrative construction.

The interpretation of the exemption provision by the court below avoids several consequences inimical to effective price control. Particular businesses, either by virtue of historical accident or sectional economic considerations, may be locally designated and regulated as public utilities. These, in petitioner's view, would be exempt from regulation under the Act although their counterparts in a neighboring state or community might not be so exempt. Unjustified economic preferences, regional dislocations, and other evils would result. Many of the businesses which would be so affected supply services constituting important elements of cost in the distribution of commodities whose prices must be effectively regulated if the purposes of the statute are to be achieved. Without coherent federal regulation of the charges for

[10] 56 Stat. 765, 50 U. S. C. App. § 961.

[11] 88 Cong. Rec., September 10, 1942, 7343 to 7346, Petitioner's Brief, Appendix A, pp. vii to xx.

such services, the establishment and maintenance of maximum prices for those commodities would be rendered immeasurably more difficult.

As the court below recognized, the alternative interpretation would have created serious administrative difficulties. The determination of the existence of valid state public utility regulation would be difficult at best, and at worst, impossible. The economic basis for the state's action would have to be appraised against a background of state and federal constitutional law. Even should the Administrator determine the exercise of legislative authority to be constitutionally well founded, the substantive nature of the regulation, the precise coverage of the state statutes, and their actual administration would still require investigation. To have required the Administrator to make such determinations would be to require him to embark upon investigations not only irrelevant to, but inconsistent with, the important tasks assigned to him by Congress.

If, then, "public utility" is to be defined apart from state-created categories, the Administrator acted properly in taking the words in their "ordinary and usual sense, and with the meaning commonly attributable to them." *DeGanay v. Lederer*, 250 U. S. 376, 381. To have defined the phrase, as the dissenting opinion below does, in terms of technical criteria drawn from diverse

sources, including judicial opinions addressed to constitutional issues, would have imported into the administration of the Act in another form the reference to particular state laws and the consequent inequalities and complexities which Congress did not mean to impose. The Administrator and the court below took the phrase as descriptive of those enterprises which have commonly been denominated "public utilities."

2. The language of the statute and common acceptance support the conclusion of the Administrator and the court below that a public warehouse is not a "public utility" within the meaning of Section 302 (c) (2) of the Act. Section 302 (c) of the Act provides that the term "commodity" as used in the Act "includes services rendered * * * in connection with the processing, distribution, storage, installation, repair, or negotiation of purchases or sales of a commodity, or in connection with the operation of any service esfablishment for the servicing of a commodity: * * *" The administrative determination that the bulk of storage services are furnished by public warehouses is unquestioned (R. 44). It seems clear, therefore, that the public warehousing business is covered by the Act. Moreover, in the legislative consideration of the measure there were references to electric, gas, water, and telephone companies as exempt by virtue of the provisions of

section 302 (c) (2),[12] but warehouses were referred to only as subject to regulation.[13]

A good indication of the common understanding of such a term may be found in the use made of it generally by the state legislatures.[14] Forty-four jurisdictions include electric light and power companies in their definition of public utilities; forty-five jurisdictions include common carriers. A like number include telephone and telegraph companies; forty-two include water companies, while thirty-seven include gas companies in their statu-

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[12] 88 Cong. Rec. January 7, 1942, at 68; 88 Cong. Rec. September 10, 1942, at 7343, 7344.

[13] During the Senate Hearings the Administrator stated expressly that "warehousing" was one of the services subject to regulation. Hearings before the Committee on Banking and Currency, U. S. Senate, on H. R. 5990, 77th Cong., 1st Sess. (1941) 121–122. The meaning of the term "service establishment" is explained by the Report of the Senate Banking and Currency Committee as "intended to include all establishments rendering services in connection with the use of goods, including such typical establishments as laundries, cleaners and dyers, and other such establishments listed as service establishments by the United States Census." Sen. Rep. No. 931, 77th Cong., 2d Sess. (1942), 16. The United States Census includes "warehousing" in its list of service establishments. Reports on Business, Census of Business: 1939, Vol. 3, Service Businesses (U. S. Dept. of Commerce, 16th Census, 1940) 244. See also *Lincoln Savings Bank of Brooklyn* v. *Brown*, decided by the Emergency Court of Appeals, May 7, 1943, holding the renting of safe deposit facilities to be within the term "storage" as used in section 302 (c).

[14] Cf. *Eagan* v. *Commissioner of Internal Revenue*, 43 F. (2d) 881 (C. C. A. 5th).

tory definitions.[15] The treatment of warehouses by state legislatures is noteworthy by way of contrast.[16] Only three states include all warehouses in their statutory definition of public utilities; eight include sharply limited types of warehouses in their statutory definition. Thirty-six states and the District of Columbia make no mention of warehouses at all in their statutory definitions.[17]

The decisions of the federal courts express the same understanding of the meaning of the term. In *Nebbia* v. *New York*, 291 U. S. 502, the Court distinguished between public utilities and other businesses subject to state regulation, expressly listing those which fell within the former category.[18] After pointing out that the dairy industry

[15] See Chart set forth as Appendix B, *infra*.

[16] See Appendix B.

[17] The chart attached to Petitioner's brief as Appendix B is misleading. In the column headed "Warehouses" reference is made to 22 states which regulate the rates of certain warehouses. The inference is that such rate regulation constitutes a state classification of warehouses as "public utilities." The exercise of a state power to regulate the rates and charges of a particular business does not constitute such a business, in the accepted sense of the phrase, a public utility. *Nebbia* v. *New York*, 291 U. S. 502, 531. Furthermore, states are included in this column although only limited classes of warehouses are regulated.

[18] In *Wolff Packing Co.* v. *Court of Industrial Relations of Kansas*, 262 U. S. 522, 535, this Court also distinguished between public utilities and other businesses subject to state regulation.

was not "in the accepted sense of the phrase, a public utility," (p. 531), the Court went on to say (p. 534):

> In the same volume [as *Munn* v. *Illinois*] the Court sustained regulation of railroad rates. * * * Plainly the activities of railroads, their charges and practices, so nearly touch the vital economic interests of society that the police power may be invoked to regulate their charges, and no adtional formula of affection or clothing with a public interest is needed to justify the regulation. *And this is evidently true of all business units supplying transportation, light, heat, power and water to communities, irrespective of how they obtain their powers.* [Italics supplied.] [19]

Substantially the same view of the limited scope of the term "public utility" was expressed in *Pulitzer Publishing Company* v. *Federal Communications Commission*, 94 F. (2d) 249 (App. D. C.), where the court said (p. 251):

> But we have never said that a radio broadcasting station is a public utility in

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[19] See also Frankfurter, *The Public and its Government* (1930) 81. Similarly, the financial community usually excludes warehouses from its classifications of public utilities. Moody's *Manual of Public Utilities* (1942 ed.), p. a3 and pp. a83, a91. See also Standard and Poor's *Trade and Security Index* for 1941 listing only the following companies as public utilities: electricity, gas, telephone, telegraph, and electric railways.

> the sense in which a railroad is a public utility. Generally speaking, that term comprehends any facility employed in rendering quasi public service such as waterworks, gas works, railroads, telephones, telegraph, etc. * * *

Congress, by the United States Warehouse Act,[20] has regulated certain aspects of the activities of warehouses storing agricultural products. None of the indicia of public utility regulation are present. Indeed, the method chosen for rate regulation, the suspension of licenses when the rates are unreasonably high, is utterly inconsistent with any notion of "securing for society those essential services which are furnished by public utilities."[21]

In construing the exemption provision of Section 302 (e) (2) of the Act so as to achieve uniformity in its application throughout the country, the Emergency Court of Appeals followed the general rule for the construction of federal statutes laid down by this Court. It also followed the opinions of this Court in distinguishing the classification of businesses generally designated by the phrase "public utilities" from those businesses which are subject to regulation by a state as a proper exercise of its police powers. Thus, the

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[20] C. 313, 39 Stat. 486, *et seq.*, 7 U. S. C. §§ 241–273.

[21] Frankfurter, *loc. cit.*, *supra*, note 19.

Emergency Court of Appeals gave proper effect to the applicable decisions of this Court.

3. Petitioner suggests as an additional reason for the issuance of the writ that a division of opinion among judges of the Emergency Court of Appeals is comparable to conflicting decisions by circuit courts of appeals. This analogy is ingenious but unsound. In view of the exclusive jurisdiction of the Emergency Court of Appeals, only if that court were sitting in divisions, as it is authorized to do by Section 204 (c) of the Act, and conflicting decisions were rendered, would it be necessary for this Court to exercise its supervisory powers of review in order to resolve a conflict of decisions.

While it must be conceded that the issue raised here is of importance, the concurrence of the Administrator and the Emergency Court of Appeals as to the proper interpretation of a limitation on the Administrator's authority would appear to make review by this Court unnecessary. It is clear that the Administrator's interpretation of the Act is entitled to great weight. Approval of such an interpretation by the special court created to review the validity of the Administrator's regulations and orders should normally be sufficient to settle the controverted question.

CONCLUSION

The decision below is correct and does not warrant further review. The petition should therefore be denied.

Respectfully submitted.

OSCAR COX,
Acting Solicitor General.

GEORGE J. BURKE,
General Counsel,
NATHANIEL L. NATHANSON,
Assistant General Counsel,
WILLIAM R. MING, Jr.,
Attorney,
Office of Price Administration.

JULY 1943.

APPENDIX A

EMERGENCY PRICE CONTROL ACT OF 1942, C. 26, 56 STAT. 23

SECTION 302 (C)

(c) The term "commodity" means commodities, articles, products, and materials (except materials furnished for publication by any press association or feature service, books, magazines, motion pictures, periodicals and newspapers, other than as waste or scrap), and it also includes services rendered otherwise than as an employee in connection with the processing, distribution, storage, installation, repair, or negotiation of purchases or sales of a commodity, or in connection with the operation of any service establishment for the servicing of a commodity: *Provided*, That nothing in this Act shall be construed to authorize the regulation of (1) compensation paid by an employer to any of his employees, or (2) rates charged by any common carrier or other public utility, or (3) rates charged by any person engaged in the business of selling or underwriting insurance, or (4) rates charged by any person engaged in the business of operating or publishing a newspaper, periodical, or magazine, or operating a radio-broadcasting station, a motion-picture or other theater enterprise, or outdoor advertising facilities, or (5) rates charged for any professional services.

1 State	2 Electricity, Light, Power	3 Gas	4 Water	5 Communications	6 Common Carriers	7 Heat and Refrigeration	8 Warehouses (a) No Warehouses Included	8 Warehouses (b) Certain Warehouses Included	8 Warehouses (c) All Warehouses Included	9 Others
Alabama	X	X	X		X	X	X			Pub. wharves, docks
Arizona	X	X	X	X	X			Storage of cotton and wool.		
Arkansas	X	X	X	X	X	X	X			
California	X	X	X	X	X	X			X	Wharfage. "Every class of private corporations, individuals or associations of individuals hereafter declared by the Legislature to be public utilities."
Colorado	X	X	X	X	X		X			"every corporation now or hereafter declared by law to be affected with a public interest."
Connecticut	X	X	X	X	X		X			
Delaware [2]										
Florida: (a) Private Utilities.			X	X	X		X			
(b) Municipal Utilities.		X					X			Reservoirs, sewerage, pumping stations, wells; distribution systems, intakes, purification works; collecting systems, treatment and disposal works; airports, hospitals, jails, golf courses.
Georgia	X	X		X	X		X			Docks
Idaho	X	X	X	X	X			Warehouses used in connection with carriers and agricultural produce.		
Illinois	X		X	X	X	X		Grain Warehouses.		Wharfingers

[1] For statutory references see Appendix C.
[2] Delaware has neither statutory definition nor regulation.

1 State	2 Electricity, Light, Power	3 Gas	4 Water	5 Communications	6 Common Carriers	7 Heat and Refrigeration	8 Warehouses (a) No Warehouses Included	8 Warehouses (b) Certain Warehouses Included
Indiana	X		X	X	X	X		
Iowa	X			X	X	X	X	
Kansas	X		X	X	X	X	X	
Kentucky	X	X	X	X	X		X	
Louisiana		X		X	X		X	
Maine	X	X	X	X	X			Warehouses used in connection with common carriers.
Maryland	X	X	X	X	X		X	
Massachusetts	X	X	X	X	X		X	
Michigan	X	X	X	X	X		X	
Minnesota: (a) Private Utilities.							X	
(b) Municipal Utilities.	X	X	X	X	X	X	X	
Mississippi	X	X	X	X	X		X	
Missouri	X	X	X	X	X	X	X	
Montana	X		X	X	X	X	X	
Nebraska				X	X		X	
Nevada	X		X	X	X	X		Warehouses used in connection with common carriers.
New Hampshire	X		X	X	X	X	X	
New Jersey	X	X	X	X	X	X	X	

APPENDIX B.—ANALYSIS OF STATE STATUTORY DEFINITIONS OF "PUBLIC UTILITY"

4	5	6	7	8			9
				Warehouses			
Water	Communications	Common Carriers	Heat and Refrigeration	(a) No Warehouses Included	(b) Certain Warehouses Included	(c) All Warehouses Included	Others
X	X	X	X			X	
	X	X	X	X			Aeronautics
X	X	X	X	X			
X	X	X		X			
	X	X		X			
X	X	X			Warehouses used in connection with common carriers.		Wharfingers
X	X	X		X			
X	X	X		X			
X	X	X		X			Oil, river improvement, radio.
				X			
X	X	X	X	X			Ice, stone quarries, public markets and slaughter houses, pavement and sewer works, docks, depots.
X	X	X		X			
X	X	X	X	X			
X	X	X	X	X			Sewerage
	X	X		X			
X	X	X	X		Warehouses used in connection with common carriers.		Airships, radio, ditches, drainage systems, sewerage.
X	X	X	X	X			
X	X	X	X	X			Sewers

1	2	3	4	5	6	7	8			9
							Warehouses			
State	Electricity, Light, Power	Gas	Water	Communications	Common Carriers	Heat and Refrigeration	(a) No Warehouses Included	(b) Certain Warehouses Included	(c) All Warehouses Included	Others
New Mexico	X	X	X			X	X			Any mechanical plant p ing or refining agric products.
New York	X	X		X	X	X	X			
North Carolina: (a) Private utilities.	X	X	X	X	X	X	X			
(b) Municipal utilities.	X	X	X				X			Schools, libraries, ceme market houses, wharves grounds, parks, g plants, armories, audito abattoirs, sewer sy slaughter houses.
North Dakota	X	X	X	X	X	X		Warehouses for food and agricultural products.		
Ohio	X	X	X	X	X	X	X			Messenger service
Oklahoma	X	X	X	X	X		X			Cotton gins, oil, sewera other systems by whom owned or operated for use."
Oregon	X		X	X	X	X	X			
Pennsylvania	X	X	X	X	X	X	X			Wharves, sewerage
Rhode Island	X	X	X	X	X		X			
South Carolina	X	X	X		X	X	X			
South Dakota				X	X				X	
Tennessee	X	X	X	X	X		X			"any other like system, p equipment affected b dedicated to the pub under privileges, fran licenses or agreements g by the state or any p subdivision thereof."
Texas	X	X	X	X			X			Sewerage

	7	8 Warehouses			9
	Heat and Refrigeration	(a) No Warehouses Included	(b) Certain Warehouses Included	(c) All Warehouses Included	Others
	X	X			Any mechanical plant processing or refining agricultural products.
	X	X			
	X	X			
		X			Schools, libraries, cemeteries, market houses, wharves, playgrounds, parks, garbage plants, armories, auditoriums, abattoirs, sewer systems, slaughter houses.
	X		Warehouses for food and agricultural products.		
	X	X			Messenger service
		X			Cotton gins, oil, sewerage, "or other systems by whomsoever owned or operated for public use."
	X	X			
	X	X			Wharves, sewerage
		X			
	X	X			
				X	
		X			"any other like system, plant or equipment affected by and dedicated to the public use under privileges, franchises, licenses or agreements granted by the state or any political subdivision thereof."
		X			Sewerage

1	2	3	4	5	6	7	8 Warehouses			9
State	Electricity, Light, Power	Gas	Water	Communications	Common Carriers	Heat and Refrigeration	(a) No Warehouses Included	(b) Certain Warehouses Included	(c) All Warehouses Included	Others
Utah	X	X	X	X	X	X		Warehouses storing grain or used in connection with common carriers.		
Vermont	X	X	X	X	X		X			
Virginia	X	X	X	X	X		X			Internal improvements, "and all other persons or corporations having the power of eminent domain."
Washington	X	X	X	X	X			Warehouses used in connection with transportation by water.		Wharfingers
West Virginia	X	X	X	X	X		X			Radio..wharves and any business "which is or shall hereafter be held to be a public service."
Wisconsin	X		X	X		X	X			
Wyoming	X	X	X	X	X	X	X			
District of Columbia	X	X	X	X	X		X			
Total	44	37	42	45	45	24	37	8	3	

APPENDIX C

STATUTORY REFERENCES UNDERLYING APPENDIX B

State	*Statutory Reference*
Alabama	Code (1940) Title 48, § 302.
Arizona	Code (1939) § 69–201; § 52–901.
Arkansas	Dig. Stat. (Pope 1937) § 2064 (d).
California	State Const. Art. XII, § 23; Gen. Laws (1937 Deering) Act No. 6386 § 2½.
Colorado	Stat. Ann. (1935), Ch. 137, §§ 3, 4.
Connecticut	Gen. Stat. (Rev. 1930) § 3577.
Delaware	———
Florida	Stat. 1941, Title 25. Ibidem, § 180.07.
Georgia	Code Ann. § 93–307.
Idaho	Code Ann. (1932) §§ 59–128, 59–129; § 67–202.
Illinois	Ill. Stat. Ann. (Jones) § 112.027.
Indiana	Stat. Ann. (Burns' 1933), § 54–105.
Iowa	Code (1939), § 7874.
Kansas	Gen. Stat. Ann. (1935) §§ 66–104, 66–105.
Kentucky	Ky. Stat. Ann. (Baldwin 1936), § 3952–1.
Louisiana	Gen. Stat. (Dart's, 1939) §§ 7912, 7980–7997, 7997.1–11.
Maine	Rev. Stat. (1930) Ch. 62, § 15.
Maryland	Code Ann. (Flack, 1939) Art. 23, § 349.
Massachusetts	Ann. Laws (1933) Ch. 159, 159A and B, 160–166.
Michigan	Stat. Ann. § 22.13 (6).
Minnesota	Stat. (Mason 1927) §§ 1311, 1484, and 1786.
Mississippi	Code (1930) § 2455, Supp. (1938) Ch. 154–A.
Missouri	Stat. Ann., Vol. 9, Ch. 33, §§ 5122, 5136.
Montana	Rev. Code (1935) § 3881.
Nebraska	Comp. Stat. (1929) § 75–1302.
Nevada	Comp. Laws (1929) § 6106.
New Hampshire	Pub. Laws (1926), Ch 236, § 4, as amended by L. 1941, Ch. 197.
New Jersey	Gen. Stat. Ann. § 48:2–13.
New Mexico	Laws 1941, Ch. 84; Stat. Ann. (1929), § 134–1125, Const., Art. 11 § 7.
New York	Public Service Law § 2, Subdivision 22; Tax Law § 186a.
North Carolina	Code (1939) § 1112 (1) and § 2832.

North Dakota	Comp. Laws (1913) (1925 Supp.) § 4609-C-2.
Ohio	Gen. Code (Page) §§ 614-2-2a, 5415.
Oklahoma	Stat. Ann., Title 17, §§ 41, 151; Title 21, § 1265.1.
Oregon	Comp. Laws Ann. (1940) §§ 112-401, 114-101.
Pennsylvania	Pa. Stat. (Purdon), Title 66, § 1102, Subdivision 17.
Rhode Island	Gen. Laws (1938) Ch. 122, § 2.
South Carolina	Code of Laws (1932) §§ 8252, 8555-1.
South Dakota	Code (1939), § 52.0201.
Tennessee	Tenn. Code Ann. (Williams 1932), § 5448.
Texas	Tex. Stat. (Vernon 1936) Title 32, Ch. 10.
Utah	Rev. Stat. (1933) § 76-2-1.
Vermont	Pub. Laws (1933) §§ 6085, 6706 IIIb.
Virginia	Code (1936) (1940 Supp.) § 3881.
Washington	Rev. Stat. Ann. (Remington) § 10344.
West Virginia	Code (1937) §§ 2546, 2553.
Wisconsin	Stat. 1941, § 196.01.
Wyoming	Rev. Stat. (1931) § 94-101.
District of Columbia	D. C. Code (1940) § 43-103; 37 Stat. 974, Ch. 150, § 8.

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